

No. 784

IN THE

United States Circuit Court of Appeals

FOR THE NINTH CIRCUIT.

GUY N. STOCKSLAGER,

PLAINTIFF IN ERROR,

VS.

THE UNITED STATES OF AMERICA,

DEFENDANT IN ERROR.

Brief of Defendant in Error.

JOSEPH K. WOOD,

United States District Attorney,

Second Division, District of Alaska.

No. 784.

IN THE

United States Circuit Court of Appeals
FOR THE NINTH CIRCUIT.

GUY N. STOCKSLAGER,
Plaintiff in Error,

vs.

THE UNITED STATES OF AMERICA,
Defendant in Error.

UPON WRIT OF ERROR TO THE DISTRICT COURT FOR THE
DISTRICT OF ALASKA, SECOND DIVISION.

BRIEF OF DEFENDANT IN ERROR.

Notwithstanding the voluminous brief upon the contention of plaintiff in error that the Court below had no authority to adjourn its special term from Unalaska to Nome, and call a grand and petit jury to sit at the latter place, defendant in error insists that the provisions of the Alaska Code in this particular are directory, and that the defendant was in nowise prejudiced by the action of the Court.

Counsel for defendant in error would indeed be derelict in their official duty did they fail to notice the scandalous and impertinent matter injected into the brief of plaintiff in error in these words: "In justice to Judge Wickersham " we wish to say that his intentions in convening said " Court were perfectly fair, but he was a stranger in our " midst, and knew not of the many and bitter factional " fights that made so difficult the selection of impartial " juries. He was not aware that rumors of corruption in " the drawing of grand juries on former occasions, had so " terrified those charged with crime that they felt it neces- " sary to their safety to be present at the selection of the " grand and petit juries, in whose hands were their liber- " ties." (Brief of Pltff. in Error, page 13.)

Just what purpose matter of this kind can serve in such a dignified tribunal as this is not apparent to counsel for the United States. Certainly, there is nothing in the record tending in the remotest degree to show any such conditions as are vouchsafed by counsel for plaintiff in error, and unless the purpose of counsel is to slander and vilify officers of this Court, we are at a loss to know why such language is used in a brief of this character. Possibly by the time the learned counsel for plaintiff in error has filed his second brief in this Court, it will dawn upon him that the usages and practices of the hustings do not obtain here.

II.

The other contentions set forth in the third, fourth, fifth,

sixth, and seventh specifications of error relied upon are fully answered by referring to the testimony of the plaintiff in error (pp. 55, 56, and 57, Tr.).

Until this information was offered by him his conviction could not have been produced without being wholly obnoxious to every rule or precedent, and, judging from the learned manner in which his counsel has presented this case, no one knew that better than he.

Plaintiff in error admits the writing of the check, identifies it as the check introduced in evidence, and admits its lack of genuineness. He also admits that he signed the name of Cabell Whitehead, and used the check for the purpose of obtaining money from the witness Johnson, who did not seem to be as greatly interested to produce a conviction as was plaintiff in error and his learned advocate. In view, then, of the testimony of plaintiff in error we do not consider any discussion of the array of authorities cited by counsel at all necessary or pertinent, and we respectfully submit that no reasonable error has intervened.

JOSEPH K. WOOD,

United States District Attorney, Second Division, District of Alaska.

